HON'BLE SRI JUSTICE A.GOPAL REDDY

WRIT PETITION No.9103 of 2006

Date: 27-04-2006

-

Between:

N.Annapurnamma

…. Petitioner/s

and

The Director of Civil Supplies,

Government of Andhra Pradesh,

Civil supplies Bhavan,

Andhra Pradesh, Hyderabad and others.

…Respondent/s.

HON'BLE SRI JUSTICE A.GOPAL REDDY

WRIT PETITION No.9103 of 2006

ORDER :

The petitioner is a Fair Price Shop Dealer of 16th Ward of Chirala Town and Mandal. She filed an appeal before the Director of Civil Supplies, Government of Andhra Pradesh, Hyderabad, questioning the orders of bifurcation and deletion of cards attached to her shop by the District Collector in proceedings RC.No.CS2/2367/2005, dated 23-6-2005 and to open a new Fair Price Shop at Ayyappa Swamy Temple area in Chirala Town, on various grounds, including that the same is not economically viable and the same is contrary to the instructions issued by the Government. The said appeal was taken up for hearing on
7-1-2006 and 21-1-2006 and finally it was adjourned to 4-2-2006. The counsel, who is representing the petitioner appeared on the first two dates. But on 4-2-2006, it is stated that the counsel informed the petitioner to take adjournment since he is bed ridden and accordingly the petitioner's husband appeared before the Director of Civil Supplies and requested for adjournment. But surprisingly on 20-2-2006 the petitioner came to know that the appellate authority passed orders on 4-2-2006 dismissing the appeal exparte. Aggrieved by the said orders of dismissal, the petitioner filed the present writ petition contending that the orders passed by the appellate authority is in violation of the principles of natural justice and the petitioner should be given an opportunity to represent her case through her counsel.

Heard learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

Except the statement of the petitioner that her husband appeared before the appellate authority and sought adjournment, who filed an affidavit to that effect, no other worth evidence has been produced before this Court about the intimation given by her Advocate to represent the matter before the appellate authority. If really the husband of the petitioner contacted the Advocate and represented the matter before the appellate authority on 4-2-2006, normally a Memo will be filed seeking adjournment, but no such endeavour has been made to show that the petitioner's husband appeared before the appellate authority and requested for time.

It is settled that what the petitioner has stated cannot be accepted in view of the proceedings recorded by the appellate quasi-judicial authority wherein it is stated that the counsel who acknowledged the notice of hearing on 4-2-2006 is not present nor the petitioner is present when the case was taken up for hearing. It is only the appellate authority, which passed the order, has to rectify the mistake said to have been committed, if the appellate authority is satisfied that there was a request seeking adjournment. In view of the same, since the petitioner's request for adjournment was favourably considered, as stated, is not born out from the records, the proper remedy for the petitioner is to approach the appellate authority bringing the said fact to the notice of the appellate authority and invite an order on merits thereon.

The writ petition is accordingly dismissed. No costs.

_____

A. GOPAL REDDY,J)

27-4-2006.

Msr.

HON'BLE SRI JUSTICE A.GOPAL REDDY

WRIT PETITION No.9103 of 2006

27-04-2006

(Msr)